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No. 84-1482

In the Supreme Court of the United States

October Term, 1984

GEORGE L. KARAPINKA,
Petitioner pro se

v.

UNION CARBIDE CORPORATION,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

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26 pp

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DESIGNATION OF CORPORATE RELATIONSHIPS

Pursuant to Rule 28.1 of the Rules of the Supreme Court, the following is a listing naming all subsidiaries (except wholly-owned subsidiaries), and affiliates of Respondent Union Carbide Corporation: Arizona Welding Equipment Co.; Bayox Inc.; Colombia Welding Products, Inc.; Miami Welding Supply, Inc.; ACM Services, Inc.; Carbographite Limited; Chrome Corporation (South Africa) (Proprietary) Limited; Elektrode Maatskapy Van Suid Africa (Eiendoms) Beperk; Zimbabwe Mining and Smelting Company (Private) Limited; Karaj Road Property Company Limited; Ucar Plastics (Ghana) Limited; Union Carbide Egypt S.A.E.; Union Carbide Ghana Limited; Union Carbide Kenya Limited; Union Carbide Nigeria Limited; Union Carbide Sudan Limited; Union Carbide Yemen Ltd.; Carbide Hashim Industrial Gas Company; Tubatse Ferrochrome (Proprietary) Limited; P.T. Agrocarb Indonesia; Chemos Industries Pty. Limited; Delvan Pty. Limited; Joint Industries (HYCEL) 1970 Limited; P.T. Karmi Arafura Fisheries; Nippon Unicar Company Limited; Sony-Eveready Inc.; Union Carbide Australia & New Zealand Limited; Union Carbide Australia Limited; Union Carbide Ceylon Limited; Union Carbide Formosa Co., Ltd.; Union Carbide India Limited; Union Carbide Malaysia Sdn. Bhd.; Union Carbide New Zealand Limited; Union Gas Company Limited; Union Polymers Sdn. Bhd.; Union Showa K.K.; Nepal Battery Company, Ltd.; Dai Nippon Jushi Company Ltd.; Eveready Hong Kong Company; Sankyo Plastics Company Limited; Wako Jushi Company Limited; Argon, S.A.; Calida Gas B.V.; Indugas N.V.; La Littorale S.A.; Skandinaviska Polypropane A/B; Unifos Chimie France; Unifos G.m.b.H.; Unifos Kemi A/S; Unifos Kemo Norsk A/S; Unifos U.K. Limited; Union Carbide France, S.A.; Union Carbide Iberica, S.A.; Compania Navarra del Oxigeno S.A.; Oxigeno Del Norte, S.A.; Oy Unifos A.B.; Societe Civile des Produits Lifine;

Eletro Manganes Ltda.; Eletrometalurgica Saudade Ltda.; Oxigenio Edy S.A.; Union Carbide Argentina, S.A.I.C.S.; Sociedad Anonima White Martins; S.A. White Martins Nordeste; Celbras-Emprese Brasileira de Cilindros Limitada; Incarmex, S.A. de C.V.; Nitropet, S.A.; Servicios DYC, S.A. de C.V.; Unicarb Industrial, S.A. de C.V.; Union Carbide Mexicana, S.A.; Administracion y Servicios Carmex, S.A. de C.V.; Servicios Administrataivos Carmex, S.A. de C.V.; Niject Services Company; Welnite Company; Petromont and Company Limited; Eveready Hong Kong Company.

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28 U.S.C. § 1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

N.Y. Civil Practice Law § 213 (McKinney Supp. 1983-84).

> Actions to be commenced within six years: where not otherwise provided for; on contract; on sealed instrument; on bond or note, and mortgage upon real property; by state based on misappropriation of public property; based on mistake; by corporation against director, officer or stockholder; based on fraud

The following actions must be commenced within six years:

> 1. an action for which no limitation is specifically prescribed by law;
>
> 2. an action upon a contractual obligation or liability express or implied, except as provided in section two hundred thirteen-a of this article or article 2 of the uniform commercial code;*
>
> 3. an action upon a sealed instrument;
>
> 4. an action upon a bond or note, the payment of which is secured by a mortgage upon real property, or upon a bond or note and mortgage so secured, or upon a mortgage of real property, or any interest therein;

* § 213-a provides that actions based on a residential rent overcharge shall be commenced within four years of the overcharge.

5. an action by the state based upon the spoliation or other misappropriation of public property; the time within which the action must be commenced shall be computed from discovery by the state of the facts relied upon;

6. an action based upon mistake;

7. an action by or on behalf of a corporation against a present or former director, officer or stockholder for an accounting, or to procure a judgment on the ground of fraud, or to enforce a liability, penalty of forefeiture, or to recover damages for waste or for an injury to property or for an accounting in conjunction therewith.

8. an action based upon fraud; the time within which the action must be commenced shall be computed from the time the plaintiff or the person under whom he claims discovered the fraud, or could with reasonable diligence have discovered it.

INDEX OF ABBREVIATIONS

The following abbreviations are used in this Brief:

A— The Appendix to the Petition, page —.

SA— The Supplemental Appendix, which is bound with this Brief in Opposition to Petition for Certiorari, page —.

No. 84-1482

In the
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October Term, 1984

GEORGE L. KARAPINKA,
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v.

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On Writ of Certiorari to the
United States Court of Appeals for the Second Circuit

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

FOREWORD

To The Honorable Chief Justice
and Associate Justices of the
Supreme Court of the United States:

The Petitioner has presented two questions for review by this Court. The first of these questions relates to the applicability of the New York statute of limitations to two documents assigning Petitioner's rights to the inventions disclosed and claimed in the patent applications which eventuated as U.S. Patents 3,709,853 and 3,756,998.

The second question implies that the dismissal entered in this case by the court of appeals violated Petitioner's right to be heard because the court failed to consider "essential evidence to the contrary." This question is specious in the context of the matters on appeal and seeks to combine—as one issue—two unrelated matters.

The Petitioner's second question is more easily understood if separated into the following two component parts:

1. Whether Petitioner was given a full and fair opportunity to present his claims; and

2. Whether the appellate court properly dismissed the Petitioner's appeal for lack of jurisdiction.

These questions, while certainly important to Petitioner, do not justify the grant of a writ of certiorari. The legal principles which govern the decisions at issue here have been well established by this Court and the federal courts generally for many years. Nor, as explained below, can it be said that the decisions rendered in this case are in conflict with those of other federal courts. Under these circumstances, there is no reason, and particularly no "special and important" reason, for review on writ of certiorari.

OPINIONS OF THE COURTS BELOW AND REVIEW OF PERTINENT PRIOR PROCEEDINGS

The original complaint in this case asserted various causes of action against Union Carbide Corporation relating to certain of Petitioner's inventions and alleged discoveries made while Petitioner was employed by Respondent. On February 8, 1984, in response to this complaint, Respondent filed its first motion for partial dismissal under Rule 12(b)(6) and for a more definite statement under Rule 12(e), Fed. R. Civ. P. On March 30, 1984, after hearing argument on Respondent's motion, the district court dismissed the complaint and allowed Petitioner thirty days in which to replead. Petitioner then filed a

motion and memorandum requesting reconsideration of the March 30 Order. That motion was denied from the bench on April 13, 1984. Petitioner then served and filed an "amended" complaint that same day. An additional pleading was filed shortly thereafter to correct several omissions and typographical errors.

The Petitioner's second complaint continued to aver that two assignment documents relating to U.S. Patents 3,709,853 and 3,756,998 are null and void, and that seven other patents owned by Respondent are invalid. The assignments in question, dated December 12, 1968, and May 26, 1971, respectively, conveyed Petitioner's rights to inventions made during the course of his employment to his then employer Union Carbide Corporation.

On May 7, 1984, Respondent filed its second motion under Rules 12(b)(6) and 12(e). That motion was presented to the district court on May 25, 1984, at which time the court heard argument and questioned Petitioner regarding his repleaded claims. An Order and opinion subsequently issued on July 10, 1984, in which the court dismissed certain claims and directed Petitioner to provide a more definite statement with respect to any remaining claims within thirty days. (See A2.) More specifically, the Order dismissed those claims of the second complaint relating to the assignment of Petitioner's inventions in view of New York's six year statute of limitations, which was held to be applicable to the assignment documents. In addition, the district court held, after making repeated inquiries of plaintiff, that fraud on the part of defendent was neither in issue nor alleged in the complaint. With regard to that portion of the second complaint seeking a declaration that Respondent's patents are invalid, the district court found there to be no controversy for purposes of a declaratory judgment with respect to the validity of any patent because Petitioner had not been accused of patent infringement.

On July 17, 1984, Petitioner filed a motion and memorandum for reconsideration of the district court's Order of July 10. Petitioner's motion for reconsideration was denied by Order dated August 13, 1984. (See All.) That Order, and the Order of July 10, are the subject of the Notice of Appeal which was submitted to the clerk of the district court by letter dated August 21.

On July 30, 1984, the Respondent filed a further motion to dismiss under Rule 12(b)(6). That motion was based upon an admission by Petitioner that he could not provide a more definite statement of his remaining claims in accordance with the district court's Order of July 10.

The hearing on Respondent's third motion to dismiss was held on August 10, 1984. The Petitioner did not appear in opposition to the motion, nor did he file a more definite statement as directed by the district court. At the conclusion of the hearing, the Respondent's motion to dismiss was granted and the second complaint was dismissed in its entirety with prejudice. The Order embodying that ruling was signed by the district judge on August 28, 1984, and filed that same day. (See SA1.) Also on August 28, the clerk of the district court docketed the Notice of Appeal mentioned above, which is the only Notice of Appeal to be filed in this case. Judgment was entered on September 21, 1984.

In the fall of 1984, Petitioner perfected his appeal to the Court of Appeals for the Second Circuit and Respondent moved promptly to dismiss on the grounds that the Orders appealed from lacked the requisite finality to be appealable within the meaning of 28 U.S.C. § 1291. Petitioner filed his brief in opposition to this motion on December 4, 1984, and on December 24, the court below dismissed the appeal. (See A1.) Petitioner then filed and briefed a motion for rehearing, which was denied on March 20, 1985. (See SA3.) The present Petition for Writ of Certiorari was docketed on March 21, 1985.

SUPPLEMENTAL CITATIONS TO DECISIONS BELOW

The majority of the pertinent opinions and decisions of the lower courts are appended to the Petition for Writ of Certiorari. Those opinions, however, should be supplemented by the district court's Order dismissing, with prejudice, the Petitioner's second complaint, and the Order of the court of appeals denying Petitioner's motion for rehearing. These decisions are printed in the Supplemental Appendix to this Brief.

SUMMARY STATEMENT OF THE CASE

The foregoing review of the proceedings in this case to date, with particular reference to Petitioner's efforts to present his arguments to the district and appellate courts, sets forth the facts pertinent to the present Petition.

Petitioner, plaintiff below, has sought at every stage of this litigation to flavor his case with vague references to purported fraud on the part of Respondent and has made baseless allegations that the district and appellate courts refused to hear his claims. The thrust of Petitioner's arguments here is that he wrongly assigned two of his inventions to Respondent, and that the lower courts have violated his "human rights" by denying him the opportunity to present his case.

As evidenced by the present Petition, Mr. Karapinka has consistently coupled his allegations with completely unsupported conclusory statements that are unnecessary to the proper resolution of this case. For example, Petitioner continues to make allusions to fraudulent conduct in connection with the assignment of his inventions to Respondent, even though the district court explicitly held that Petitioner's claims sought nothing more than rescission of

those agreements based on allegations of duress, illegality or lack of consideration, and that fraud is neither in issue nor alleged in the amended complaint.

Moreover, contrary to what the Petition seems to suggest, the appellate court did not reach the merits of the district court's decision in dismissing Petitioner's appeal, nor was it necessary for the appellate court to review Petitioner's allegations that he was precluded from presenting his arguments to the district court. The dismissal entered by the appellate court was based entirely on the fact that it lacked jurisdiction to hear the appeal because the Orders appealed from were neither certified nor final.

Despite the very considerable attention which has been accorded the Petitioner's claims, Petitioner nevertheless asks this Court to consider whether his "human rights" have been violated. Petitioner also asks this Court to review the remuneration that should properly be given to employed inventors for the assignment of their inventions. These questions raise issues that go far beyond the facts or pleadings of this case; and their resolution was not involved in the rulings which are the subject of the present Petition.

ARGUMENT

I. The Assignment Documents In Question Are Contracts Subject To The New York Statute of Limitations

In the section of his Petition relating to the assignment documents, Petitioner raises three distinct points, only one of which is properly at issue here. First, the Petitioner argues that the assignments in question are not contracts and that the New York statute of limitations relating to actions based on contract cannot be applied to bar his claims.

Second, Petitioner alleges that the inventions which he conveyed to Respondent were developed outside of his employment and that he was under no obligation to assign them to his employer. Third, Petitioner claims that inventors in the United States are not realistically compensated for their inventions, which, he believes, has resulted in a decline in the ability of the United States to compete with industries in foreign countries. To reverse this trend, Petitioner asks this Court to "reinterpret" its prior ruling in *United States* v. *Dubilier Condenser Corp.*, 289 U.S. 178 (1933), so as to give Petitioner title to the inventions he assigned to Respondent in 1968 and 1971.

These last two points form no part of the district court's judgment; nor was consideration of these points necessary to the dismissal of the appeal. Petitioner is therefore asking this Court to vacate the judgments of two lower courts and to enter judgment in his favor based on issues which are unrelated to the decisions of the courts below.

In dismissing Petitioner's claims relating to the assignment documents, the district court held that Petitioner's action is based on principles of contract. The court also

held that Petitioner's claims are subject to New York's six year statute of limitations relating to contract actions. N.Y. Civ. Prac. Law § 213 (McKinney Supp. 1983-84). The acts of which Petitioner complains occurred and his cause of action accrued no later than September 4, 1973, the latest date appearing in the amended complaint. The district court therefore properly dismissed the Petitioner's claims—embodied in his complaint of April 13, 1984—as time barred.

Underlying this decision, of course, is the district court's determination that the assignments in question are contracts. Such finding is in accord with longstanding legal precedent. In *McAleer* v. *United States,* 150 U.S. 424, 431 (1893), this Court held that an assignment by a patentee of the right to make and use machines containing the improvements claimed in his patent constitutes a contract, and embodies a complete legal obligation. More recently, assignments of patent rights were called contracts—and treated as contracts—in *Beghin-Say International, Inc.* v. *Ole-Bendt Rasmussen,* 733 F.2d 1568 (Fed. Cir. 1984), and *Perma Research & Development Co.* v. *Singer Co.,* 402 F. Supp. 881 (S.D. N.Y. 1975), *aff'd,* 542 F.2d 111 (2d Cir. 1976).

It is equally clear that the assignments at issue here are subject to the New York statute of limitations. In *Beghin-Say,* 733 F.2d at 1570-71, the Court of Appeals for the Federal Circuit held that an action to declare an assignment of two U.S. patent applications to be valid is *not* a federal question but sounds exclusively in contract and is cognizable in state courts. Under this Court's ruling in *Guarantee Trust Company* v. *York,* 326 U.S. 99, 108-109 (1945), a federal district court whose jurisdiction is based on diversity of citizenship is bound to apply the statute of limitations a court of the forum state would apply. Because the New York statute of limitations is procedural, since it goes to the remedy rather than the right, New York courts

will apply their own statute of limitations even though the wrong which gave rise to the action may have occurred in another state. *Martin* v. *Julius Dierck Equipment Co.*, 43 N.Y. 2d 583, 588, 374 N.E. 2d 97, 99 (1978).

Petitioner's primary citation relating to this point, *Crown Die & Tool Co.* v. *Nye Tool & Machine Works*, 261 U.S. 24 (1923), is totally inapposite. In that case, suit was brought on a patent by an assignee who only had the right to sue for damages for past infringement. This Court held that the assignee had no right to bring suit. The right to sue, at that time, was governed by R.S. § 4919, which read in pertinent part:

> Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as a patentee, assignee, or grantee.

In *Crown Die*, there was no dispute that the contract in question was an assignment of only the right to sue for past infringement. *Crown Die* involved the effect of a statute on an unchallenged assignment of a right to sue on a patent. Though the Court in *Crown Die* referred to the validity of a patent assignment as a matter arising under the patent laws, that reference cannot be read out of context. Petitioner here is not suing on a patent and is not claiming a right to sue based on an assignment from the patent owner; instead, the Petitioner is requesting that the assignment documents be rescinded. The present suit is simply a contract action. The New York statute of limitations consequently applies to bar Petitioner's claims, and his arguments to the contrary are ill-conceived.

Petitioner's reliance on the decision in *United States* v. *Dubilier Condenser Corp.*, 289 U.S. 178 (1933), is also

misplaced. That decision holds only that while one employed to make an invention in the service of his employer is "bound to assign to his employer any patent obtained," *Dubilier Condenser,* 289 U.S. at 187, one whose employment is "general" is not so required. *Id.* The decision does not preclude an employee from entering into an independent contract with his employer for the assignment of a patent. Viewed in this light, it is irrelevant whether Petitioner was subject to a formal employment agreement during the course of his employment with Respondent Union Carbide Corporation. The two assignment contracts which form the basis of Petitioner's cause of action constitute independent contracts which conveyed to Respondent Petitioner's rights to the patent applications which eventuated as U.S. Patents 3,709,853 and 3,756,998. Under these circumstances, a review of this Court's ruling in the *Dubilier* case is uncalled for and does not justify the grant of a petition for writ of certiorari.

II. The Petitioner Has Been Given A Full and Fair Opportunity To Present His Claims

The same arguments which are now before this Court were made repeatedly and extensively below. Notwithstanding Petitioner's assertions to the contrary, the district court carefully considered Petitioner's claims. Those claims were reviewed against a background of the case as a whole, and in the context of three motions to dismiss and two motions for a more definite statement. Petitioner filed numerous briefs in the district court, and personally appeared before the court on no fewer than four separate occasions, during which time the trial judge repeatedly inquired into the nature of Petitioner's claims. This history does not suggest that Petitioner was denied an opportunity to be heard.

As to Petitioner's allegation that he was interrupted by the district court on two separate occasions, it is well

settled that due process does not require oral argument on every question, no matter how substantial. *Federal Communications Commission* v. *Station WJR,* 337 U.S. 265, 275-76 (1949). An examination of the written record in this case should persuade the Court that the trial judge was well advised of the rulings the Petitioner desired.[1] Looking more specifically at the circumstances of the case at bar, we submit that the two "interruptions" cited in the Petition were merely occasioned by the repetitious nature of the Petitioner's argumentation. The "interruptions" do not suggest that Petitioner was denied a right to be heard, and certainly do not rise to the level of a "human rights" violation as Petitioner now contends.

Petitioner also argues that his right to be heard was violated by the court of appeals because that court failed to consider evidence in the form of transcripts of the district court proceedings "which would not have permitted the Court of Appeals to dismiss my appeal." Here, Petitioner's argument is confused and confusing. Petitioner seems to imply that the decisions of the lower courts were adverse simply because certain so-called evidence was not considered. Based on this circuitous reasoning, Petitioner now asks this Court to vacate the judgments below. However, the "essential evidence" that Petitioner claims was unavailable to the lower courts was either cumulative, and thus had already been considered, or was irrelevant to the issues presented.

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[1] Respondent understands that the Petitioner has undertaken to provide ten copies of the Appendix, as prepared for use in the Court of Appeals below, to this Court for its use in connection with the present Petition.

III. The Dismissal of Petitioner's Appeal Was In Accord With Accepted Judicial Procedures

Petitioner contends that his appeal to the Court of Appeals for the Second Circuit was dismissed on a "non-existent technicality" contrary to the ruling of this Court in *Cohen* v. *Beneficial Industrial Loan Corporation,* 337 U.S. 541 (1949).[2] While one cannot be certain just what ruling Petitioner refers to, it is very clear that the dismissal of Petitioner's appeal was in accord with the long-standing requirement that all appeals be taken from a final judgment.

Petitioner filed his Notice of Appeal from the district court's denial of his motion for reconsideration and from the July 10 Order dismissing two claims of the second complaint and granting plaintiff leave to provide a more definite statement with respect to any remaining claims within thirty days. The Orders appealed from are therefore interlocutory rather than final because they did not dismiss all the claims of the second complaint and did not terminate the action. Nor were these decisions certified in accordance with Rule 54(b), Fed. R. Civ. P., for the purposes of an appeal. *See Clark* v. *United States,* 624 F.2d 3, 4 (2d Cir. 1980). Furthermore, the final judgment entered by the district court does not retroactively validate Petitioner's premature Notice of Appeal. *United States* v. *Taylor,* 632 F.2d 530, 531 (5th Cir. 1980).

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[2] In *Cohen,* the Court recognized the appealability of an order dealing with the posting of security pending litigation, stating:

> We hold this order appealable because it is a final disposition of a claimed right which is not an ingredient of the cause of action and does not require consideration with it.

337 U.S. at 546-47. Here, the Orders from which Petitioner sought appeal are not collateral.

In the context of this litigation, adherence to the rule requiring that an appeal be taken from a final judgment is particularly appropriate. Given the elusive nature of Petitioner's claims, it would be unfair to Respondent if fewer than all claims were heard on appeal, since Petitioner might conceivably elect to present his unappealed claims in another form, in another forum, for further consideration.

It is important to note that in dismissing the Petitioner's appeal, the court of appeals did not need to reach the merits of the district court's decision. Petitioner's argument that his human rights have been violated because the appellate court failed to consider certain transcripts of the trial court proceedings thus rings particularly hollow, and certainly does not justify review on writ of certiorari.

CONCLUSION

For the reasons stated, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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Of Counsel:

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SERVICE

Service of this Respondent's Brief in Opposition to Petition for Certiorari has been made upon Petitioner by mailing three copies to Mr. George L. Karapinka, 3557 Collins Ferry Rd., B-14, Morgantown, West Virginia 26505, this 21st day of May, 1985.

Attorneys for Respondent

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GEORGE L. KARAPINKA
Plaintiff,

v.

UNION CARBIDE CORPORATION,
Defendant.

C.A. No. 83-CV-1682
Hon. Roger J. Miner

ORDER

Plaintiff, appearing *pro se,* commenced this action on December 19, 1983, alleging various causes of action against defendant Union Carbide Corporation relating to certain of his inventions and alleged discoveries, some of which had been patented by him. On March 30, 1984, this Court granted defendant's motion to dismiss under Rule 12(b)(6), Fed. R. Civ. P., and granted plaintiff leave to replead within 30 days. On April 13, 1984, the Court denied from the bench plaintiff's motion for reconsideration of its Order of March 30, and granted plaintiff an additional 30 days in which to replead. Plaintiff then served and filed an "amended" complaint that same day.

This amended complaint was the subject of a second motion to dismiss filed May 7, 1984. The defendant also moved for a more definite statement under Rule 12(e), Fed. R. Civ. P., as to those claims relating to what plaintiff refers to as his "unpatented inventions". On July 10, 1984, the Court granted the defendant's motion and dismissed those claims of the amended complaint relating to the assignment of plaintiff's inventions, and directed plaintiff to provide a more definite statement of the remaining claims

within 30 days. On July 30, 1984, defendant filed a further motion to dismiss under Rule 12 (b)(6). That motion is presently before the Court and is based upon an admission from plaintiff that he cannot provide a more definite statement of his "unpatented inventions" than that supplied in paragraph 11 of the amended complaint, which the Court has found to be inadequate.

The hearing on defendant's third motion to dismiss was held on August 10, 1984. The plaintiff did not appear in opposition to the motion, nor did he file a more definite statement as directed by the Court's Order of July 10. The defendant's motion is therefore granted. Further, the amended complaint is dismissed in its entirety with prejudice, plaintiff now having had more than ample opportunity to present any viable claims he may have.

It is so Ordered.

Dated: August 28, 1984

/s/ Roger J. Miner
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 20th day of March one thousand nine hundred and eighty-five.

Present:

HON. THOMAS J. MESKILL,

HON. AMALYA L. KEARSE,

HON. RICHARD J. CARDAMONE,

Circuit Judges,

GEORGE L. KARAPINKA,
Plaintiff-Appellant,

v.

UNION CARBIDE CORPORATION,
Defendant-Appellee.

No. 84-7916

A petition for a rehearing having been filed herein by plaintiff-appellant, George L. Karapinka, pro-se, Upon consideration thereof, it is Ordered that said petition be and it hereby is DENIED.

ELAINE B. GOLDSMITH, Clerk